

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Howard M. Kingston
Assignee: Metara, Inc.
Title: Method And Apparatus For Automated In-Process, Isotope Dilution
Threshold And Quantification Measurement Mass Spectrometry
Serial No.: 10/004,627 Filing Date: 12/04/2001
Examiner: James P. Hughes Group Art Unit: 2881
Docket No.: M-15307 US

Irvine, California
November 18, 2003

COMMISSIONER FOR PATENTS
ALEXANDRIA VA 22313-1450

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PETITION UNDER 37 CFR § 1.313(C)

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PETITIONS OFFICE

Dear Commissioner:

Applicant hereby respectfully petitions to withdraw from issue in light of the following circumstances. On July 22, 2003, Applicant responded to a non-final Office Action dated February 13, 2003. To overcome a double patenting rejection of claims 1 through 24, Applicant filed a terminal disclaimer with respect to U.S. Pat. No. 5,414,259 in the July 22nd response. The terminal disclaimer overcame the double patenting rejection as indicated by the notice of allowance for the present application dated August 27, 2003. In response to the notice of allowance, Applicant paid the issue fee on September 11, 2003. Applicant is informed that the present application will issue on November 25, 2003. However, U.S. Pat. No. 5,414,259 is assigned to Duquesne University whereas the present application is assigned to Metara, Inc. Thus, the present application will issue as an invalid patent.

Applicant only became apprised of these facts upon a recent change of attorneys. Indeed, the present counsel for Applicant did not possess the filewrapper until November 14, 2003. A power of attorney for Applicant's present counsel is enclosed.

Enclosed with this petition is a request for continued prosecution and a supporting submission. In the submission, Applicant points out significant patentable differences

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between pending claims 1 through 24 and the subject matter of claims 1, 6, and 9 of U.S. Pat. No. 5,414,259. Moreover, the additional reference used by the Examiner to support the double patenting rejection did nothing to suggest or teach these patentable differences. Thus, the pending claims are allowable over the art of record.

If there are any questions regarding any aspect of the application, please call the undersigned at 949-752-7040.

I hereby certify that this correspondence is facsimile transmitted to the Commissioner for Patents, Alexandria, VA 22313-1450, at (703) 308-6916, on November 18, 2003.



Eric Hoover

November 18, 2003
Date of Signature

Respectfully submitted,



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